

REMARKS

Claims 8-17 have been rejected under 35 U.S.C. § 112, ¶2, as being indefinite for a couple of reasons, both of which objections have been obviated in the claims as amended.

Independent claims 8 and 20 have been amended pursuant to a telephonic conference with Examiner Thomson in an attempt to eliminate any possible recapture issues. In a telephonic conference with Examiner Thompson on or about November 29, 2006, Examiner Thompson agreed that claims 8 and 20, as shown above, no longer have any recapture issues that need to be resolved. “Lower leveler” has been added to these independent claims 8 and 20 in its broadest sense, namely it merely operates in conjunction with the upper levelers by providing a fulcrum point whereby adjusting the upper levelers will pivot the tree stand substantially about a point or line where the lower leveler contacts the tree. In dependent claims 21, 22 and 25 the “lower leveler” is defined more specifically, i.e. a more specific form of the “lower leveler” is claimed in claims 21, 22 and 25; so from a claim differentiation point of view it is clear that the independent claims recite the “lower leveler” in a very broad way and dependent claims 21, 22 and 25 recite the “lower leveler” in a more specific and narrower way.

To comply with Examiner Thompson’s request of December 9, 2005, and to comply with 37 CFR § 1.73(b)(2), which apparently requires that all new claims be underlined, “new” being defined as any claims that were not in the original patent. It is assumed that by making everything underlined in the above set of claims this will give the USPTO a final set of claims in the reissue certificate and the USPTO will simply be able to put in italics

everything that was underlined, as is the way new words (not in the original patent) are identified in a Reissue Patent.

To comply with Examiner Thompson's request of December 9, 2005, Applicant, through his Attorney, makes the following statement: The patent rights in this application/patent have never been assigned, so the presumption that the inventor is the owner of this patent application as stated in 37 CFR § 3.73(a) is appropriate. Accordingly it is believed that nothing in 37 CFR § 3.73(b) applies to this application at this time.

Claims 8 and 11 have been rejected under 35 U.S.C. § 102(b) over Richard '941.

Since claim 9 was indicated as containing allowable subject matter in the First Office Action, claims 8 and 9 have been combined into amended claim 8.

Claim 9 has been cancelled without prejudice.

Claim 12 was rejected under 35 U.S.C. § 102(b) over Grote '763 and Burgin '205.

Claims 12-19 are hereby being cancelled without prejudice.

New claim 20 is mostly like original claim 9, but removing the word "upper" before "leveler" and before "stanchions" and removing "pivotally". Original claim 9 was indicated as containing allowable subject matter on the First Office Action. So it is believed that claim 20 will be allowable for similar reasons that original claim 9 was deemed to contain allowable subject matter. In fact, a Notice of Allowability was issued on March 21, 2005 based on the Amendment filed March 7, 2005, and this amendment is only necessary to conform with the formalities of 37 C.F.R. § 1.173 as indicated by Examiner Thompson in a telephone call of May 19, 2005.

Attached hereto as “extra pages” is a 7 page document entitled “**Explanation of Support for Claim Changes in Separate Paper Required by 37 C.F.R. § 1.173(c)**” which is a photo copy of the claims of this amendment, but with handwritten notes **showing the support in the specification and drawings of the original patent, U.S. Patent No. 6,386,321** for the claim recitations added since the original Reissue Application was filed.

Accordingly, since all remaining claims 1-8, 10, 11, 17, 20, 22 and 25 are believed to be clearly allowable, a notice to that effect is respectfully submitted.

Respectfully submitted,

Anthony J. MUHICH

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By: /Michael O. Sturm/
Michael O. Sturm
Reg. No. 26,078

STURM & FIX LLP
206 Sixth Avenue, Suite 1213
Des Moines, Iowa 50309-4076
Phone: 515-288-9589 or 515-244-2866 (direct)
Fax: 515-288-4860

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Anthony J. Muhich

Ser. No. 10/718,510

Art Unit: 3634

Filed: November 20, 2003
Thompson

Examiner: Hugh B.

For: SELF LEVELING TREE STAND

**EXPLANATION OF SUPPORT FOR CLAIM CHANGES IN SEPARATE
PAPER AS REQUIRED BY 37 C.F.R. § 1.173 (c)**

Column and line numbers below are from original U. S. Patent No. 6, 386,321

Claims 1-7 from the original patent are allowed.

8. (Amended) A tree stand, for use on a tree, comprising:

(14) Col. 3, Line 3
a seat support disposed generally along a longitudinal axis;
(80) Col. 4, Lines 29-45 (14) Col. 4, Lines 35-3
a strapping mechanism operatively attached to the seat support member for

operatively attaching the seat support to a tree;

(70/16) Col. 4, Lines 19-28
a seat operatively attached to a top portion of the seat support;
(20) Col. 2, Lines 56-67
a platform operatively pivotally attached to a bottom portion of the seat support,

said platform having a top portion for permitting a person to stand thereon;

(50) Col. 3, Lines 36-61
at least one member operatively attached to the seat support and to the platform
(14) Col. 3, Line 3
to hold the platform transversely disposed with respect to the longitudinal axis of the seat
support;

(32) Col. 3, Lines 25-36
an upper leveler mechanism³⁰ operatively attached to said seat support and
engageable with said tree for adjusting the position of the seat support between a first
position and a second position with respect to the tree, said first position being closer to
the tree than the second position thereof;

Figs. 4 & 5

wherein said upper leveler mechanism³⁰ includes a first and second sleeve³⁴ and a
respective first and second upper stanchion³² each mounted for selective movement within
the respective first and second sleeve, each of the first and second sleeves³⁴ being
operatively attached to the seat support, the first and second upper stanchions³² each being
independently adjustable with respect to a respective first and second sleeves³⁴ to
accommodate varying contours of the tree;

Col. 3
 Lines
 11-35

(35, 36, 38) Col 3 Lines 24-36
a locking mechanism³⁴ for selectively and operatively locking the upper leveler
mechanism in a selected one of the first or second positions thereof; and
 (22, 40, 42) Col. 3, Lines 19-24
a lower leveler³⁴ for operating, at a minimum, as a fulcrum to allow the seat support
to pivot at a point against the tree as the upper leveler mechanism is used to adjust the top
portion of the seat support closer to or farther from the tree.

Figs 4 & 5

9. (Cancelled)

10. (Amended) The tree stand of claim 8 including an independent locking
 (35, 36, 38) Col. 3, Lines 24-36
mechanism³⁴ for each sleeve whereby the first stanchion can be in a different locked
position with respect to the second stanchion.

11. (Original) The tree stand of claim 8 wherein there is a second
(50) Col. 3, Lines 36-61
member operatively attached to the seat support and to the platform to hold the platform
transversely disposed with respect to the longitudinal axis of the seat support.

12. (Cancelled)

13. (Cancelled)

14. (Cancelled)

15. (Cancelled)

16. (Cancelled)

17. (Original) The tree stand of claim 10 wherein the independent
(35, 36, 38) Col. 3, Lines 24-36
locking mechanism can be used to lock the first stanchion with respect to the sleeve in
more positions than just said first and second positions thereof.

18. (Cancelled)

19. (Cancelled)

20. (New) A tree stand, for use on a tree, comprising:
 (14) Col. 3, Line 3
a seat support disposed generally along a longitudinal axis;
 (80) Col. 4, Lines 29-45
a strapping mechanism operatively attached to the seat support member for
 (14) Col. 3, Line 3
operatively attaching the seat support to a tree;
 (70) Col. 4, Lines 19-28
a seat operatively attached to a top portion of the seat support;
 (20) Col. 2, Lines 56-60-67
a platform operatively pivotally attached to a bottom portion of the seat support,
said platform having a top portion for permitting a person to stand thereon;
 (50) Col. 3, Lines 36-61
at least one member operatively attached to the seat support and to the platform
to hold the platform transversely disposed with respect to the longitudinal axis of the seat
support;
 (32, 30, 34) or (22, 42, 40)
a leveler mechanism operatively attached to said seat support and engageable with
said tree for adjusting the position of the seat support between a first position and a
second position with respect to the tree, said first position being closer to the tree than the
second position thereof;
 34 or 22
wherein said leveler mechanism includes a first and second sleeve and a
 32 or 42
respective first and second stanchion each mounted for selective movement within the
 34 or 22
respective first and second sleeve, each of the first and second sleeves being operatively
 32 or 42
attached to the seat support, the first and second stanchions each being independently
 34 or 22
adjustable with respect to a respective first and second sleeves to accommodate varying
contours of the tree;

Col. 3
 Lines
 12-36

Col. 3
 Lines
 12-36

Col. 3
Lines
12-36

22. (Amended) The tree stand of claim 8 wherein said lower leveler
includes a first and second lower sleeve ⁽⁴²⁾ and a respective first and second lower stanchion ⁽²²⁾
each operatively mounted for selective sliding movement with respect to the respective
first and second lower sleeve ⁽⁴²⁾, each of the first and second lower sleeves ⁽⁴²⁾ being operatively
attached to the seat support ⁽¹⁴⁾, the first and second lower stanchions ⁽²²⁾ each being
independently adjustable with respect to a respective first and second lower sleeves ⁴² to
accommodate varying contours of the tree.

23. Cancelled)

24. (Cancelled)

Col. 3
Lines
12-36

25. (Amended) The tree stand of claim 20 wherein said lower leveler
includes a first and second lower sleeve ⁽⁴²⁾ and a respective first and second lower stanchion ⁽²²⁾
each operatively mounted for selective sliding movement with respect to the respective
first and second lower sleeve ⁽⁴²⁾, each of the first and second lower sleeves ⁽⁴²⁾ being operatively
attached to the seat support ⁽¹⁴⁾, the first and second lower stanchions ⁽²²⁾ each being
independently adjustable with respect to a respective first and second lower sleeves ⁴² to
accommodate varying contours of the tree.

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Anthony J. MUHICH

Dec. 4, 2006
Date

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Reg. No. 26,078

STURM & FIX LLP
206 Sixth Avenue, Suite 1213
Des Moines, Iowa 50309-4076
Phone: 515-288-9589 or 515-244-2866 (direct)
Fax: 515-288-4860